



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

Date Dyddiad	23rd January 2020
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Hugh Towns - Powys County Council
County Hall
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LD1 5LG

Dear Sir/Madam

**TOWN AND COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) (WALES)
ORDER 2012
CONSULTATION WITH NEIGHBOURING LOCAL PLANNING AUTHORITY
IN ACCORDANCE WITH ARTICLE 14(1)**

PROPOSAL: Consultation from Powys County Council - Section 73 Application to Vary Condition 54 of planning consent 18/1070/REM 7 in relation to restoration scheme (PCC ref. 19/1899/REM)

LOCATION Nant Helen Surface Mine, Nr Onllwyn, Neath

APPLICANTS NAME & ADDRESS Hugh Towns - Powys County Council

YOUR REF: 19/1899/REM

I refer to the above planning application referred to this Council in accordance with the above Act and order and in accordance with the attached report, the contents of which we ask you note and have regard to, would offer no objections.

Yours faithfully

Ceri Morris – Head of Planning & Public Protection

Encs. Officer Report

Amgylchedd ac Adfywio

Ceri Morris Pennaeth Cynllunio a Gwarchod y Cyhoedd

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Environment and Regeneration

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Croesewir gohebiaeth yn y Gymraeg a byddwn yn ymdrin â gohebiaeth Gymraeg a Saesneg i'r un safonau ac amserlenni.

We welcome correspondence in Welsh and will deal with Welsh and English correspondence to the same standards and timescales.

REPORT

SITE AND CONTEXT

The application site comprises the existing Nant Helen Open Cast Coal Site (OCCS), Powys.

The Nant Helen OCCS covers an area of some 345 hectares and is located approximately 200m east of Penrhos; 350m south east of Cae'r-bont; 350m south of Caehopkin; 750m south of Abercrave; 725m west of Coelbren; 900m north-west of Onllwyn and 650m north of Seven Sisters. The site has been extensively worked as an open cast coal mine and consists of restored land, overburden mounds, coal stocking areas, barrel wash and plant maintenance areas, site office facilities and a void which is currently being mined. The site is currently being mined by Celtic Energy, although mining operations will cease in 2021, at which point Celtic Energy will be required to restore the land in accordance with regulatory requirements and agreements with Powys County Council.

The north and west of the working area is covered by woodland, whereas the land to the south and east is open upland common land forming part of Mynydd-Y-Drum. A significant part of the OCCS (184 hectares) also falls within the Mynydd-y-Drum Common. The Sustrans National Cycle Route 43 Celtic Trail East follows the northern and western boundary of the site. The opencast void has moved in a westerly direction during the operation of the Nant Helen series of sites, which began operations in 1986. The current void is located at the western end of the development within the area of Nant Helen Remainder. The overburden storage mounds are to the east of the void with the coal preparation plant, stocking area, offices and workshops located further to the east.

Access to the existing site is gained from the A4221 at Coelbren, along a 1.2km access road which heads west before turning south towards the office/workshop area. There is also an internal haul road link which runs south from the office/workshop area before turning east towards Onllwyn Washery.

DESCRIPTION OF DEVELOPMENT

This is a consultation from Powys CC as an adjoining Authority in respect of details pursuant to the variation of Condition 45 of Planning permission 18/1070/REM, namely a revised restoration scheme.

NEGOTIATIONS

Not applicable.

PLANNING HISTORY

The Nant Helen OCCS has a detailed planning history, primarily (but not wholly) relating to land in the Powys administrative boundary, dating back to 1996, including (but not limited to) the following: -

- N1996/0112 (NPT) Extract coal by open cast methods incl. Washing of coal bearing material (access only in Neath b.cl. Area). Approved 01.01.1997

- P2001/0405 (NPT) Vary condition 1 of previous planning application P96/0112 - to extend the period in which the development is begun until 31st July 2003
 - P/2011/0217 (PCC) Western extension to Nant Helen surface mine for the purposes of coal extraction along with completion of coaling at existing site and associated ancillary development including restoration and subsequent aftercare of the full development site - Planning Permission Granted subject to S106 Agreement – 9th March 2012
 - PP 106-98-005/PP 106-12-001 (PCC) Nant Helen Extension – Planning permission Granted at Appeal – 21st July 1998
 - 18/1070/REM (PCC) Section 73 application to vary condition 2 of P/2011/0217 to allow an extension to time to allow extraction of all the coal and completion of restoration.
- PCC resolved to grant subject to section 106 agreement (outstanding)

CONSULTATIONS

NPT Ecologist - It is welcomed that the existing biodiversity value of the site has informed the design of the current proposal. However, it is of concern that the biodiversity value and assessment of the amended restoration proposals have utilised out of date ecological information. The information presented was collected in 2010 and 2012, this is significantly out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. It is therefore recommended that up to date ecological surveys are undertaken to inform the amended restoration proposals. The current ecological information presented is not considered appropriate or adequate.

Further discussion as to the potential to recreate or translocate habitats, if removal of the overburden mound was necessary, would also be expected. Whilst retention of S7 (formerly S42) is welcomed it may be the case that such habitats can be moved or recreated elsewhere on site to address landscape or visual amenity issues for example. Consideration of this option would be recommended if alternative options are recommended for non-biodiversity reasons. Information relating to ecosystem resilience is also recommended to be provided to ensure the LPA can appropriately assess the application in line with the S6 duty of the Environment Wales Act 2016.

REPORT

The Well-being of Future Generations Act (Wales) 2015 places a duty on the Council to take reasonable steps in exercising its functions to meet its sustainable development (or wellbeing) objectives. This report has been prepared in consideration of the Council's duty

and the “sustainable development principle”, as set out in the 2015 Act. In reaching the recommendation set out below, the Council has sought to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs.

National Planning Policy:

[Planning Policy Wales](#) (Edition 10) was extensively revised and restructured at the end of 2018 to take into account the themes and approaches set out in the Well-being of Future Generations (Wales) Act 2015, and to deliver the vision for Wales that is set out therein.

PPW10 takes the seven *Well-being Goals* and the five *Ways of Working* as overarching themes and embodies a placemaking approach throughout, with the aim of delivering *Active and Social Places*, *Productive and Enterprising Places* and *Distinctive and Natural Places*. It also identifies the planning system as one of the main tools to create sustainable places, and that placemaking principles are a tool to achieving this through both plan making and the decision making process.

Local Planning Policies

The Development Plan for the area comprises the [Neath Port Talbot Local Development Plan](#) which was adopted in January 2016, and within which the following policies are of relevance:

Strategic Policies :

- **Policy SP14** [The Countryside and the Undeveloped Coast](#)
- **Policy SP15** [Biodiversity and Geodiversity](#)
- **Policy SP16** [Environmental Protection](#)
- **Policy SP17** [Minerals](#)

Topic Based Policies :

- **Policy EN6** [Important Biodiversity and Geodiversity Sites](#)
- **Policy EN7** [Important Natural Features](#)
- **Policy EN8** [Pollution and Land Stability](#)
- **Policy M2** [Surface Coal Operations](#)
- **Policy M4** [Criteria for the Assessment of Mineral Development](#)

Assessment

Officers received a disk and hard copy of the application in order to assess the application, which along with additional meetings with the applicant has given sufficient clarification for the application to be interrogated and for the following assessment to be made.

Observations and comments

The restoration proposal is mainly in line with the original strategy approved incorporating the land use.

The major potential concern for NPT relates to the proposed finished profile and nature of the landform of the existing overburden mound facing the Dulais Valley which varies from the previously-approved restoration profiles.

The amended scheme shows that the existing top tier of the overburden mound (up to 20m) facing the Dulais Valley communities will be removed leaving just the bottom tiers to be blended into the existing topography. The removed material will help create the remaining restoration profile within the void area of the site.

The height of the finished landform at its greatest point is shown as approximately 24m higher than the original restoration strategy profile (was 296m AOD), and as a consequence the retained overburden would have a greater landscape and visual impact than the original restoration scheme when viewed from areas of NPT to the south, south-east and east of the site. Nevertheless, Officers are satisfied that the photomontages and sightline sections demonstrate that the reduction in height and regrading of the side slopes would soften its finished appearance and ensure that in addition to reducing the existing long-term visual impact from the current overburden mound, would result in a finished landform which would in itself have no unacceptable adverse visual or landscape impacts. It is also understood that this would generally conform with (the former) CCW's original comments back in 2011 insofar as the bottom two tiers would be retained for landscape and ecological reasons and the shallow graded western and eastern flanks would protect views from surrounding areas especially from the Onllwyn and Seven Sisters area. The same would apply looking from the Cwmllynfell area towards the Sarn Helen area. Changes to the void area, while significant, would have no adverse impact on views from NPT.

Accordingly, while the restoration profile will be materially different to the original restoration strategy, there are no objections to the scheme in respect of landscape or visual impacts from views within NPT.

It would be advisable, however, to carry out this work under an agreed phasing regime. This could cover any early abandonment of the site resulting in lessening the effect on residential amenity where the limited effect of the landscape falls short on deliverability of the restoration scheme. It is also important to ensure that the restoration bond is sufficient to secure full restoration of the site.

It is noted that the access to Onllwyn within NPT has not been addressed under this application, though no objections are raised to this approach.

Technical Assessment

Following a detailed assessment of the submitted documentation, calculations, land use etc. relating to the site, the submissions are found to be acceptable.

Calculations roughly equate to the current void amounting to 16 million cube, part of this void will be filled by the overburden generated when the site is still in production. The remainder of the void will be filled by removing the material from the main overburden surcharge mound currently creating the visual impact on landscape within the Dulais Valley.

Most of the site will be restored by treated soil form material to provide the land use. There is a limited soil form covering on the current Over Burden Mound facing the Dulais Valley which is to be stripped and placed over the proposed final contours, enhancing the general form of the slopes formed, and thus enabling the overburden mound to secure a more natural profile which ties in more sympathetically with the wider landscape. This re-profiling

would reduce the landscape impact of the western and eastern flanks of the retained overburden mound when viewed from the Dulais Valley.

The surcharge mound in layers will be reduced then married into the existing topography. This in principal will be in line with CCW's original historic comments.

The drainage proposals are shown within the application and are considered to be acceptable.

It has been stated that there is £18.5 million available in the current escrow account to deliver the restoration scheme proposed. Following review NPT is satisfied that this will be sufficient to deliver the amended restoration scheme. We would recommend additional work to revisit the restoration and aftercare cost estimate, along with the introduction of an annual review of costings and the escrow account to increase or decrease the value, while the legal agreement could be revisited on a phased operation agreed to guarantee delivery of the proposed restoration and aftercare of the site.

The current 12 year aftercare provision could be revisited to the normal 5 and 10 year cycles hence we would like to see confirmation of the restoration and aftercare costs – these could be aligned to the application under the legal agreement under a task based costing.

There are no detrimental comments made regarding the submission, but as above we consider that the legal agreement currently in place should be revisited and should seek to ensure that sufficient controls are in place to secure the guaranteed delivery of the proposed restoration and aftercare scheme.

Confirmation of the restoration and aftercare costs would be beneficial to ensure the restoration of the site.

Biodiversity

While welcoming that the existing biodiversity value of the site has informed the design of the current proposal, the Council's ecologist has raised concerns that the presented ecological information is out of date particularly in relation to the type of early successional habitats discussed, and such habitats can quickly deteriorate due to scrub and grass encroachment. It also appears that there is very little up to date species information presented to inform the proposals and any mitigation necessary, if protected species were found to be present. They also state that there should be further discussion as to the potential to recreate or translocate habitats, including potential for S7 habitats to be moved or recreated elsewhere on site to address landscape or visual amenity issues.

It is therefore recommended that your ecologists ensure they are satisfied with the level of information available to inform their assessment of the amended restoration proposals.

CONCLUSION

Neath Port Talbot County Borough Council offers **no objections** to the amended restoration scheme under Condition 45 of Planning permission 18/1070/REM.